

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

GUILLERMO GRAY,

Plaintiff,

v.

**KILLICK GROUP, LLC AND
JACK LAWLOR,
*Defendants.***

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CIVIL ACTION NO. 4:21-cv-01673

DEFENDANT KILLICK GROUP, LLC'S NOTICE OF REMOVAL

TO THE HONORABLE JUDGE OF SAID COURT:

Defendant Killick Group, LLC ("Defendant" or "Killick Group"), files this Notice of Removal pursuant to 28 U.S.C. §§ 1331, 1441, and 1446, and respectfully shows as follows:

**I.
PROCEDURAL BACKGROUND**

1. On April 27, 2021, Plaintiff Guillermo Gray ("Plaintiff" or "Gray") filed his Original Petition in Cause No. 2021-25184; *Guillermo Gray v. Killick Group, LLC and Jack Lawlor*, in the 281st Judicial District Court of Harris County, Texas (the "State Court Action").

2. Defendants Killick Group and Jack Lawlor were purportedly served on April 29, 2021.¹

3. Killick Group will promptly file this Notice of Removal in the State Court Action with the clerk of the State Court and will give written notice to Plaintiff of the same.

¹ Pursuant to Federal Rule of Civil Procedure 81, Killick Group, LLC and Jack Lawlor will answer and/or present their defenses or objections, including but not limited to defenses and motions pursuant to Federal Rules of Civil Procedure 12(b) and 12(e). Defendant Jack Lawlor does not waive his objections to personal jurisdiction and reserves his right to file a motion to dismiss for lack of personal jurisdiction pursuant to Federal Rule of Civil Procedure 12(b)(2).

II.
NATURE OF THE SUIT

4. Plaintiff alleges that Killick Group misclassified him as an independent contractor and failed to pay him at a rate of one and one-half times the regular rate of pay for hours Plaintiff allegedly provided services for over forty hours per week in violation of the Fair Labor Standards Act (“FLSA”).² Plaintiff also made claims for breach of contract, quantum meruit, and violations of the Texas Labor Code.

III.
GROUND FOR REMOVAL

5. This Court has original subject matter jurisdiction over this civil action pursuant to 28 U.S.C. §1331 because this matter presents a federal question under the FLSA. The FLSA cause of action was created by federal law and Plaintiff’s right to relief necessarily depends upon the resolution of a substantial question of federal law. Specifically, Plaintiff alleges he was improperly classified as an independent contractor and was not paid “at a rate of not less than one and one-half times the regular rate of pay for such hours he worked over forty hours per week.”³ Moreover, when a civil action includes a claim arising under the laws of the United States and a claim not within the original or supplemental jurisdiction of the district court or a claim that has been made non-removable by statute, the entire action is still removable pursuant to 28 U.S.C. §1441(c).⁴

IV.
REMOVAL IS PROCEDURALLY CORRECT

6. Defendants Killick Group and Jack Lawlor were purportedly served on or about

² See Exhibit B, Plaintiff’s Original Petition & Request for Disclosures, paragraphs 12-14.

³ See Exhibit B, Plaintiff’s Original Petition & Request for Disclosures, paragraphs 14.

⁴ According to 28 U.S.C. §1441(c), if the action would be removable without the inclusion of claims that are not within the original or supplemental jurisdiction of the district court or claims not made removable by statute, the entire action can be removed despite the inclusion of those claims.

April 29, 2021. This Notice of Removal is filed within the thirty (30) day statutory time period pursuant to 28 U.S.C. §1446(b).

7. Pursuant to 28 U.S.C. §1446(a) and Local Rule 81, attached to this Notice are the following:

- Exhibit A – Returned Citations of Process;
- Exhibit B – Plaintiff’s Original Petition and Request for Disclosures;
- Exhibit C – State Court’s Docket Sheet; and
- Exhibit D – An Index of Matters Being Filed; and
- Exhibit E – List of All Counsel of Record.

8. Pursuant to 28 U.S.C. §1446(a), Defendant removes this matter to the Houston Division of the Southern District of Texas United States District Court because it is the district within which Plaintiff’s lawsuit is pending.

9. Pursuant to 28 U.S.C. §1446(d), Defendant will provide written notice to Plaintiff and will file a copy of this Notice of Removal with the Clerk in the State Court Action.

10. Pursuant to 28 U.S.C. §1441(c)(2) only, Defendant Jack Lawlor consents to the removal. Defendant Jack Lawlor does not waive his objections to personal jurisdiction and reserves his right to file a motion to dismiss for lack of personal jurisdiction pursuant to Federal Rule of Civil Procedure 12(b)(2).

V.
PRAYER

WHEREFORE, Defendant Killick Group, LLC, respectfully requests that the above entitled action be removed from the 281st Judicial District Court of Harris County, Texas to the United States District Court for the Southern District of Texas, Houston Division.

Respectfully submitted,

**CHAMBERLAIN, HRDLICKA, WHITE
WILLIAMS & AUGHTRY, P.C.**

By: /s/ Diana Pérez Gomez
Diana Pérez Gomez
State Bar No. 24041674
Federal I.D. No. 606231
1200 Smith Street, Suite 1400
Houston, Texas 77002
Telephone: (713) 658-1818
Facsimile: (713) 658-2553
diana.gomez@chamberlainlaw.com

**ATTORNEY IN CHARGE FOR DEFENDANT
KILLICK GROUP, LLC**

OF COUNSEL:

Leslie T. Tan
State Bar No. 24046998
Federal I.D. No. 635202
1200 Smith Street, Suite 1400
Houston, Texas 77002
Telephone: (713) 658-1818
Facsimile: (713) 658-2553
leslie.tan@chamberlainlaw.com

CERTIFICATE OF SERVICE

On May 21, 2021, pursuant to Federal Rule of Civil Procedure 5, this Notice of Removal was sent to:

Husein Hadi
Jamil Thomas
Carnegie H. Mims, III
Sedrick Stagg
THE HADI LAW FIRM, PLLC
7100 Regency Square Boulevard, Suite 140
Houston, Texas 77036

Paul Higdon
HIGDON LAWYERS

4900 Fournace Place, Suite 460
Bellaire, Texas 77401

/s/ Diana Pérez Gomez

Diana Pérez Gomez